
HOUSE BILL No. 1099

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9; IC 3-14-1-17.

Synopsis: Communication with voters over the telephone. Makes it a Class B misdemeanor for a person who sponsors, authorizes, finances, or makes a telephone call to a prospective voter concerning the election or defeat of a candidate or public question to use a message delivered by a computerized or prerecorded system rather than an individual speaking live. Provides that a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee that sponsors or finances telephone calls in violation of this provision is subject to a civil penalty of up to three times the amount expended in sponsoring or authorizing the telephone calls, plus documented investigative costs. Provides that a person who authorizes or makes telephone calls in violation of this provision must pay a civil penalty of \$50 for each call, plus documented investigative costs.

Effective: July 1, 2003.

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January 7, 2003, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1099

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) In addition to any other
3 penalty imposed, a person who does any of the following is subject to
4 a civil penalty under this section:

5 (1) Fails to file with the election division a report in the manner
6 required under IC 3-9-5.

7 (2) Fails to file a statement of organization required under
8 IC 3-9-1.

9 (3) Is a committee or a member of a committee who disburses or
10 expends money or other property for any political purpose before
11 the money or other property has passed through the hands of the
12 treasurer of the committee.

13 (4) Makes a contribution other than to a committee subject to this
14 article or to a person authorized by law or a committee to receive
15 contributions on the committee's behalf.

16 (5) Is a corporation or labor organization that exceeds any of the
17 limitations on contributions prescribed by IC 3-9-2-4.



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(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Is a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee that sponsors or finances telephone calls that do not comply with IC 3-9-8-2.

(13) Authorizes or makes telephone calls that do not comply with IC 3-9-8-2.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty

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of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

(2) One thousand dollars (\$1,000).

(g) This subsection applies to a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee that is subject to a civil penalty under subsection (a)(12). If the commission determines that the candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee has sponsored or financed telephone calls that did not comply with IC 3-9-8-2, the commission may assess a civil penalty of up to three (3) times the amount expended by the candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee in sponsoring or financing the telephone calls, plus any investigative costs incurred and documented by the election division. If the commission determines that a civil penalty is warranted, the commission shall consider the following factors in determining the amount of the penalty:

(1) the number of calls made in violation of IC 3-9-8-2; and

(2) whether the calls in violation of IC 3-9-8-2 were isolated events or part of a pattern of violations.

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines that a person has violated IC 3-9-8-2, the commission shall assess a civil penalty of fifty dollars (\$50) against the person for each call that violates IC 3-9-8-2, plus any investigative costs incurred and documented by the election division.

(i) All civil penalties collected under this section shall be deposited

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1 with the treasurer of state in the campaign finance enforcement
2 account.

3 ~~(h)~~ **(j)** Proceedings of the commission under this section are subject
4 to IC 4-21.5.

5 SECTION 2. IC 3-9-4-17 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) In addition to any other
7 penalty imposed, a person who does any of the following is subject to
8 a civil penalty under this section:

9 (1) Fails to file with a county election board a report in the
10 manner required under IC 3-9-5.

11 (2) Fails to file a statement of organization required under
12 IC 3-9-1.

13 (3) Is a committee or a member of a committee who disburses or
14 expends money or other property for any political purpose before
15 the money or other property has passed through the hands of the
16 treasurer of the committee.

17 (4) Makes a contribution other than to a committee subject to this
18 article or to a person authorized by law or a committee to receive
19 contributions in the committee's behalf.

20 (5) Is a corporation or labor organization that exceeds any of the
21 limitations on contributions prescribed by IC 3-9-2-4.

22 (6) Makes a contribution in the name of another person.

23 (7) Accepts a contribution made by one (1) person in the name of
24 another person.

25 (8) Is not the treasurer of a committee subject to this article, and
26 pays any expenses of an election or a caucus except as authorized
27 by this article.

28 (9) Commingles the funds of a committee with the personal funds
29 of an officer, a member, or an associate of the committee.

30 (10) Wrongfully uses campaign contributions in violation of
31 IC 3-9-3-4.

32 **(11) Is a candidate, candidate's committee, regular party**
33 **committee, or political action committee that sponsors or**
34 **finances telephone calls that do not comply with IC 3-9-8-2.**

35 **(12) Authorizes or makes telephone calls that do not comply**
36 **with IC 3-9-8-2.**

37 (b) This subsection applies to a person who is subject to a civil
38 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
39 statement. If the county election board determines that a person failed
40 to file the report or a statement of organization not later than noon five
41 (5) days after being given notice under section 14 of this chapter, the
42 county election board may assess a civil penalty. The penalty is ten

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dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a candidate, candidate's committee, regular party committee, or political action committee that is subject to a civil penalty under subsection (a)(11). If the county election board determines by a unanimous vote that the candidate, candidate's committee, regular party committee, or political action committee has sponsored or financed telephone calls that did not comply with IC 3-9-8-2, the county election board may assess a civil penalty of up to three (3) times the amount expended by the candidate, candidate's committee, regular party committee, or political action committee in sponsoring or financing the telephone calls, plus any investigative costs incurred and documented by the county election board. If the county election board determines that a civil penalty is warranted, the county election board shall consider the following factors in determining

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the amount of the penalty:

- (1) the number of calls made in violation of IC 3-9-8-2; and
- (2) whether the calls in violation of IC 3-9-8-2 were isolated events or part of a pattern of violations.

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines that a person has violated IC 3-9-8-2, the county election board shall assess a civil penalty of fifty dollars (\$50) against the person for each call that violates IC 3-9-8-2, plus any investigative costs incurred and documented by the county election board.

(h) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

~~(g)~~ (i) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

~~(h)~~ (j) Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 3. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 8. Campaign Telephone Calls

Sec. 1. (a) For purposes of this chapter, a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee conducts business in Indiana if the candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee sponsors, finances, or authorizes telephone calls that are made to prospective voters in any election from:

- (1) Indiana to other locations in Indiana;
- (2) another state or nation to locations in Indiana; or
- (3) locations both within and outside Indiana to locations in Indiana.

(b) For purposes of this chapter, a person conducts business in Indiana if the person receives money or other remuneration to conduct telephone calls that are made to prospective voters in any election from:

- (1) Indiana to other locations in Indiana;
- (2) another state or nation to locations in Indiana; or



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(3) locations both within and outside Indiana to locations in Indiana.

(c) A nonresident of Indiana who conducts business under subsection (a) or (b) is considered to have appointed the election division as the nonresident's agent for service of process in any action or proceeding against the nonresident arising from telephone calls that are made to prospective voters in any election.

Sec. 2. A person may not sponsor, finance, authorize, or make a telephone call to a prospective voter relating to the election or defeat in any election of:

(1) a candidate;

(2) a group of candidates; or

(3) a public question;

using a message delivered by a computerized or prerecorded system rather than an individual speaking live.

SECTION 4. IC 3-14-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. A person who knowingly or intentionally sponsors, authorizes, finances, or makes a telephone call to a prospective voter in violation of IC 3-9-8-2 commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section for a violation of IC 3-9-8-2.

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